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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/895,433	06/29/2001	Ramesh Pendakur	42390P11604	8953
7590	04/08/2005			EXAMINER BAKER, STEPHEN M
BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP Seventh Floor 12400 Wilshire Boulevard Los Angeles, CA 90025-1026			ART UNIT 2133	PAPER NUMBER
DATE MAILED: 04/08/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	09/895,433	PENDAKUR ET AL.
	<b>Examiner</b>	<b>Art Unit</b>
	Stephen M. Baker	2133

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) Responsive to communication(s) filed on 25 October 2004.
- 2a) This action is **FINAL**.                                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) Claim(s) 6,9-13 and 30-56 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 6,9-13 and 30-56 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 29 June 2001 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date: _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>110104</u> .	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### ***Allowable Subject Matter***

1. The indicated allowability of claims 6 and 9 is withdrawn in view of the newly discovered reference to Blackwell *et al.* Rejections based on the newly cited reference follow.
2. Claims 42, 44, 45, 48, 50, 52 and 56 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Drawings***

3. The drawings are objected to because:

In Fig. 6: in step 630, "content" is misspelled; in step 640, "manifest" is misspelled.

4. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because Figs. 2-4, 7, 10 and 11 are of poor quality and difficult to read. Applicant is advised to employ the services of a competent patent draftsperson outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.
5. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended

replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

6. The abstract of the disclosure is objected to because: in the last line, "the re-transmits" apparently should be "then re-transmits". Correction is required. See MPEP § 608.01(b).

7. The disclosure is objected to because of the following informalities:

In the brief descriptions of Figs. 5, 6, 7, 9 and 12, "form" apparently should be "for" or "forming".

Fig. 7, most notably step 760 and the specification's discussion thereof (p. 22+), is logically awkward, confusing, and apparently incorrect and/or inadequate. Step 760

apparently functions to form a number of “missing content” records equal to the number of identifiers in the manifest if a single received packet identifier does not match any content identifiers in the manifest, the same “missing content” record-making process apparently being repeated (770, 780, 730) for each identifier on the manifest. Iterations through step 760 thus appear to compile a list of “missing content” records for every single packet that apparently shouldn’t have been received in the first place, which has nothing to do with processing of packets that actually should be received, i.e. packets that are consistent with the manifest. Apparently nothing at all is done if the received packet identifier matches an identifier in the manifest (730, 740).

Appropriate correction is required.

#### ***Claim Objections***

8. Claim 43 is objected to because of the following informalities: in line 1, “receiving” apparently should be “receiving”. Appropriate correction is required.

#### ***Claim Rejections - 35 USC § 112***

9. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action

10. Claims 6, 9-13 and 30-56 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 6, 9 and 11: in view of this Office action's observations with regard to Fig. 7 and the disclosure's description thereof, the recitation of "recording that the content portion is missing if the identifier does not correspond to an identifier of a received content portion" apparently reflects a mis-statement and/or omission of one or more essential steps of content reception verification.

***Claim Rejections - 35 USC § 102***

11. Claims 6, 9-13, 30, 31, 33-35, 37-41, 43, 46, 47, 49, 50 and 53-55 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 6,085,253 to Blackwell *et al* (hereafter "Blackwell").

Blackwell discloses arrangements for transmitting batches of files reliably to a television set-top box receiver by including a "manifest" of the files in the batch to be transmitted. Blackwell's set-top box receiver checks the manifest in order to ensure that all data packets for all files listed on the manifest have been received correctly (col. 15, lines 49+). If there is any "missing content", *i.e.* if any data packet of a file listed in the manifest is not received correctly, Blackwell's set-top box receiver requests retransmission (col. 13 lines 59+, col. 16, lines 7+). Blackwell's receiver performs a process of "locating an identifier of a content portion in the manifest" (186), the "content portion" being a file, and the "manifest" being a set of received and stored header packets. Blackwell's receiver further performs a process of "recording that the content portion is missing if the identifier does not correspond to an identifier of a received content portion"

Packets, whether transmitted only once or retransmitted, are subsequently “combined” to reconstitute the transmitted file (Fig. 2), in Blackwell’s system.

Regarding claim 9, Blackwell mentions an embodiment wherein the receiver is a home computer, which is presumably programmed with instructions for carrying out Blackwell’s receiving process (Figs. 6 and 9).

Regarding claim 30, batch files mentioned by Blackwell include “broadcast content” in the form of news wire feeds, etc. (col. 14, lines 48-59).

Regarding claim 31, the demodulator of Blackwell’s set-top receiver is presumably “tuned to the channel” over which the batch files are transmitted.

Regarding claims 33-35, 38, 40, 46, 47 and 53, batch files mentioned by Blackwell include data packets of video clips (col. 14, line 56), and the video clip file is presumably cached “for delayed viewing”, as there is no mention by Blackwell of playing the video clip without first storing data of the video clip. A video clip is considered to be a “movie”.

Regarding claim 37, as Blackwell’s receiver is a television set-top box, the digital data receiver channel is considered to be a “digital TV channel”.

Regarding claim 41, the “timeslot” of a retransmitted packet is considered to be “scheduled” by the file server .

Regarding claims 43 and 49, the channel used by Blackwell’s file server to send all data packets, new and retransmitted, is considered to be a “dedicated channel”.

Regarding claim 54, as Blackwell’s receiver in one embodiment is a television set, the receiver channel can be considered to be a “TV channel”.

Regarding claim 55, a return data path in Blackwell's system can also be used for retransmitting data (col. 7, lines 12+). As the return data path in one embodiment mentioned by Blackwell is a telephone channel, a "lower bandwidth channel" is taught.

***Claim Rejections - 35 USC § 103***

12. Claims 36 and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blackwell.

Regarding claim 36, Blackwell does not mention a particular coding format of a video clip transmitted by Blackwell's system, and thus does not specifically mention an "MPEG-based format". Official Notice is given that an "MPEG-based format" was the most well-known and widely-used format for digital video at the time the invention was made. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to implement Blackwell's digital video using an "MPEG-based format". Such an implementation would have been obvious because an "MPEG-based format" was already the most well-known and widely-used format for digital video.

Regarding claim 51, although Blackwell mentions an embodiment wherein the receiver is a digital television receiver, Blackwell does not mention whether the digital television receiver includes logic for tuning reception to the channel that is carrying the data packets. Official Notice is given that using logic to tune a digital television to any channel the television is capable of receiving was conventional at the time the invention was made. It would have been obvious to a person having ordinary skill in the art at the time the invention was made to implement Blackwell's digital television receiver with

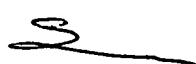
logic for tuning to the channel in which the data packets are transmitted. Such an implementation would have been obvious because using logic to tune a digital television to any channel the television is capable of receiving was already conventional.

### ***Conclusion***

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen M. Baker whose telephone number is (571) 272-3814. The examiner can normally be reached on Monday-Friday (11:00 AM - 7:30 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Albert DeCady can be reached on (571) 272-3819. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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smb